

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES

333 W. COLFAX AVENUE, SUITE 400
DENVER, COLORADO 80204

flUGS 1986

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. WEST 86-19
Petitioner	:	A.C. No. 05-01370-03550
	:	
v.	:	Eagle No. 5 Mine
	:	
EMPIRE ENERGY CORPORATION,	:	
Respondent	:	

DECISION APPROVING SETTLEMENT

Before: Judge Carlson


The parties have submitted a joint motion to approve a settlement agreement. Specifically, the Secretary asks leave to amend the penalty proposed for citation 2072087 from \$10,000.00 to \$7,500.00 on grounds that the operator's negligence proved to be less than originally believed. The Secretary also asks leave to amend the proposed penalty for citation 23333640 from \$98.00 to \$78.00 for the same reason. Finally, the Secretary moves that citation 2072088 be vacated on grounds that he lacks sufficient evidence to establish the violation.

The respondent, in turn, agrees to withdraw its notices of contest to citations 2072087 and 23333640 if the settlement is approved.

Based upon the representations of the parties and the contents of the file, I conclude that the settlement agreement is appropriate and should be approved in its entirety.

Accordingly, the settlement agreement is approved and the attendant motions are granted. Citation 2072088 is vacated. Respondent shall pay a total civil penalty of \$7,578.00 for the remaining two citations within forty days of the date of this decision. This proceeding is dismissed.

SO ORDERED.


John A. Carlson
Administrative Law Judge